

# Court Reopens it Edison closes Kin-Buc dump,

EDISON — Local officials kept their promise of closing the Kin-Buc Inc. landfill yesterday morning — but an appellate court judge hours later nullified the closing by temporarily restraining the township from enforcing its ordinance until Friday.

Judge John Fritz of the Appellate Division of Superior Court issued the temporary restraining order against the municipality at 5:30 p.m. in Somerville at the request of the Kin-Buc operators after Superior Court Judge David D. Furman refused to do so.

Judge Fritz' order came just seven hours after Mayor Thomas Paterniti ordered the closing of the Meadow Road facility following an inspection by Township Engineer William Lund who determined the site had exceeded the high limits of the ordinance.

Judge Fritz' order will expire Friday morning. Furman yesterday afternoon refused to issue the temporary restraining order against Edison, setting a show-cause hearing for 11:30 a.m. Friday to hear arguments on the landfill operator's petition.

Under the restraint issued by Fritz, the landfill can continue to operate until Friday when the landfill operators are expected to ask Furman to continue the restraint against the township.

The ordinance, which becomes effective this week, limits the height of the controversial landfill to 85 feet.

After making his inspection, Lund informed Police Chief William Fisher that the height was 101 feet and recommended the site be closed.

Paterniti issued the order to close and Ptl. Anthony Vitello and W.A. Revill were dispatched to the site where they stood by while Kin-Buc workers complied with their request that the landfill gates be locked.

As the lawyers for Kin-Buc made their way first to Furman's court and then later to Judge Fritz' courtroom, truck traffic into the landfill was stopped, according to Jim Tauriello, a company spokesman.

Tauriello said trucks were seen driving around the landfill area filled with garbage and volatile chemicals.

The 30-acre landfill, alongside the Raritan River, is the only landfill approved by the state to accept chemicals.

The company spokesman termed Paterniti's action "illegal" contending that only the state Public Utilities Commission (PUC) has jurisdiction over the site.

"If controlling a landfill were a municipal function, you would not have a landfill left in the country," said Robert Mahan, chairman of the board of Kin-Buc following the mayor's order.

Mahan said Kin-Buc has never disputed the fact that the landfill exceeds 85 feet, but he added that only a portion, about 30 per cent, exceeds the height limitation.

"Why should you file engineering plans for the DEP (Department of Environmental Protection) if the township can arbitrarily say any height is too high," Mahan asked.

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The township is expected to file arguments with Furman Friday on an order to show cause why it should be permitted to close the landfill.

In its suit against the township, which also names the PUC and DEP as defendants, Kin-Buc is asking the court to enjoin the township from enforcing its ordinance as to height of fill and asking that the code be declared null and void.

Kin-Buc also objects that the township is seeking to regulate hours of operation which are listed in the ordinance as 8 a.m. to 4:30 p.m. Monday through Saturday and no Sunday operation.

The complaint contends that Edison seeks "to manage and control the operation without statutory authority."

In addition, the complaint contends the ordinance is designed and specifically directed at Kin-Buc in an attempt to terminate landfill operations.

The operators claim the local code conflicts with jurisdictional powers of the state agencies, is designed to "prohibit and frustrate" the solid waste management business and that its authors failed to provide notice of its enactment to the landfill, an alleged violation of due process.